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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/864,845

05/24/2001

Amit Goffer

0113US-Goffer

4088

23521

7590

06/30/2004

SALTAMAR INNOVATIONS  
30 FERN LANE  
SOUTH PORTLAND, ME 04106

EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/864,845

Applicant(s)

GOFFER, AMIT

Examiner

Jerome W Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/19/12
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) \_\_\_\_\_ is/are pending in the application. 1-57 and 62-68
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement. 1-57 and 62-68

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Jerome W. Donnelly  
Primary Examiner

Jerome W. Donnelly  
Primary Examiner

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-57 are, drawn to apparatus, classified in class 601, subclass 5.
- II. Claims 62-68 are, drawn to a method of use, classified in class 128, subclass 898.

Inventions Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the apparatus as claimed can be used to practice another and materially different process such as to increase users speed and stamina/endurance.

As to the two inventions being distinct the examiner notes that all of the elements claimed within the apparatus claims are not claimed in the method claims, therefore the apparatus of claims is not necessary to practice the method of claims 62-68. The methods of class 128/898 are not a required search for an apparatus classified in class 601/5.

In view of applicants remarks directed toward the accuracy of the examiners classification of the apparatus and method. The examiner has reviewed the requirement and determined that the areas of classification should be narrowed to the above listed areas of restriction. The examiner feels that a clarification of the restriction requirement is necessary for the record and a proper restriction.

Application/Control Number: 09/864,845

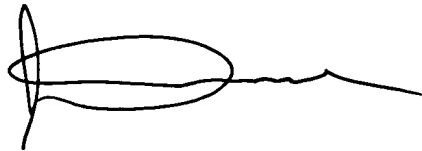
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Any inquiry concerning this communication should be directed to Jerome W  
Donnelly at telephone number 308-2668.

Donnelly/DI

June 3, 2004

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small upward flick.

Jerome W. Donnelly  
Primary Examiner